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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,447	12/12/2003	William H. Shepard	05918-209001 / 99999	2020

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EXAMINER

BRITTAIN, JAMES R

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/735,447	SHEPARD ET AL.	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05/03/2004, 06/28/2004, 07/15/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 19-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☒ Claim(s) 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04292004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

*gk*

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## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I in the reply filed on July 15, 2005 is acknowledged.

Claims 19-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on July 15, 2005.

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The supplemental declaration received May 3, 2004 seeks to claim priority benefits under 35 U.S.C. 119 based on the parent PCT application, whereas applicant has amended the specification on June 28, 2004 to claim priority benefits under 35 U.S.C. 120 based on the parent PCT application. The declaration is therefore objected to because of the inconsistency.

### *Drawings*

The replacement drawing received May 3, 2004 is of such quality that it did not scan properly and has reproduced as a light gray blotch and is not accepted. Correction is required.

The drawings are objected to because the microphotograph on page 1 is identified with the legend "Fig. 2" and the specification indicates it should be identified as --Fig. 1A--.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one

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figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harwood (US 3047444).

Harwood (figures 15-17, 34) teaches loop material comprising: a web of nonwoven fibrous material defining a plane, the web including: (a) raised areas shown in figure 17, elevated above the plane of the web, defining loops; and (b) rib areas 6, 67 surrounding the raised areas to anchor the loops, the rib areas having a line width of 1/16 (0.0625) inch as indicated by sample 1 in columns 17-18. Figures 17 and 34 show that the net 6, 67 have a height of the same order of

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magnitude as the line width and therefore larger than 0.003 inch. The rib areas clearly anchor the loops. While the device is not stated as being used as a fastener for male touch fastener elements, the loops as shown in figure 17 are inherently engageable by male touch fastener elements and the limitations within this claim are anticipated by Harwood.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harwood (US 3047444) in view of Gorman et al. (US 5904793).

Harwood (figures 15-17, 34) teaches loop material comprising: a web of nonwoven fibrous material defining a plane, the web including: (a) raised areas shown in figure 17, elevated above the plane of the web, defining loops; and (b) rib areas 6, 67 surrounding the raised areas to anchor the loops, the rib areas having a line width of 1/16 (0.0625) inch as indicated by sample 1 in columns 17-18. Figures 17 and 34 show that the net 6, 67 have a height of the same order of magnitude as the line width and therefore larger than 0.003 inch. The rib areas clearly anchor the loops. The difference is that the device of Harwood is not stated as being used as a fastener for male touch fastener elements, though it is pointed out that the male touch fastener elements are not claimed in combination. To utilize the non-woven material of Harwood as a fastener for male touch fastener elements would have been obvious in view of Gorman et al. (figure 5) teaching that non-woven material is readily usable as a fastener for male touch fastener elements.

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*Allowable Subject Matter*

Claims 1-17 are allowed.

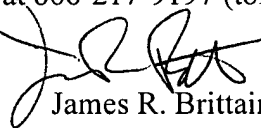
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Tsubata et al. (US 5686163, figure 1), Oborny et al. (US 5766723, figure 1), Deka et al. (US 6162522, figure 1) and Takahashi et al. (EP 765616, figure 6) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB